

# COMMITTEE REPORT

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## MADAM PRESIDENT:

The Senate Committee on Rules and Legislative Procedure, to which was referred Senate Bill No. 108, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

- 1 Delete the title and insert the following:
- 2 A BILL FOR AN ACT to amend the Indiana Code concerning
- 3 trade regulation.
- 4 Delete everything after the enacting clause and insert the
- 5 following:
- 6 SECTION 1. IC 24-5-11-2 IS AMENDED TO READ AS
- 7 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 2. As used in this
- 8 chapter, "consumer" means an individual who owns, leases, or rents ~~the~~
- 9 residential property that is:
- 10 **(1) located in Indiana; and**
- 11 **(2) the subject of a home improvement contract.**
- 12 SECTION 2. IC 24-5-11-2.3 IS ADDED TO THE INDIANA
- 13 CODE AS A **NEW** SECTION TO READ AS FOLLOWS
- 14 [EFFECTIVE UPON PASSAGE]: **Sec. 2.3. As used in this chapter,**
- 15 **"division" refers to the consumer protection division of the office**
- 16 **of the attorney general.**
- 17 SECTION 3. IC 24-5-11-6 IS AMENDED TO READ AS
- 18 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 6. As used in this
- 19 chapter, "home improvement supplier" means a person who engages in
- 20 or solicits home improvement contracts **in Indiana** whether or not the
- 21 person deals directly with the consumer.
- 22 SECTION 4. IC 24-5-11-7.3 IS ADDED TO THE INDIANA
- 23 CODE AS A **NEW** SECTION TO READ AS FOLLOWS
- 24 [EFFECTIVE UPON PASSAGE]: **Sec. 7.3. As used in this chapter,**
- 25 **"registry" refers to the voluntary home improvement supplier**
- 26 **registry established and administered by the division under section**

8.5 of this chapter.

SECTION 5. IC 24-5-11-8.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 8.5. (a) This section applies to a person that:**

- (1) executed in the preceding calendar year at least five (5) home improvement contracts concerning residential property located in Indiana; or
- (2) executes, or will execute, in the current calendar year at least five (5) home improvement contracts concerning residential property located in Indiana if the person did not in the preceding calendar year execute at least five (5) home improvement contracts concerning residential property located in Indiana.

(b) The division shall establish and administer a voluntary home improvement supplier registry to enable persons to whom this section applies to register with the division. To register with the division under this section, a person must do the following:

- (1) File an application with the division in the form and manner prescribed by the division. A registration granted by the division under this section must be annually renewed with the division on the dates and in the manner and form prescribed by the division.
- (2) Obtain any license, certificate, or registration required by the person's profession as a home improvement supplier.
- (3) Subject to subsection (h)(1), execute a surety bond that:
  - (A) is issued by a bonding, surety, or insurance company authorized to do business in Indiana;
  - (B) is a performance bond payable to the state for the use and benefit of consumers; and
  - (C) is in an amount that is at least equal to the amount prescribed by the division under subsection (c)(1).
- (4) Subject to subsection (h)(2), pay an annual registration fee in an amount prescribed by the division under subsection (c)(2).

(c) In establishing and administering the registry under this section, the division shall do the following:

- (1) Subject to subsection (h)(1), determine the minimum amount of the surety bond required under subsection (b)(3). The minimum amount prescribed by the division under this subdivision may not exceed twenty-five thousand dollars (\$25,000). However, a home improvement supplier may elect to execute a surety bond in an amount that is greater than the minimum amount prescribed by the division under this subdivision.
- (2) Subject to subsection (h)(2), determine the amount of the annual registration fee required under subsection (b)(4). The division shall use the fees imposed and collected under this section to administer the registry and to enforce:

- (A) this chapter; and

**(B) IC 24-5-0.5.**

**(3) Maintain a listing of all persons that are registered with the division under this section, including the following information for each registered person:**

**(A) The amount of the bond executed by the person under subsection (b)(3).**

**(B) A description of any licenses, certificates, or registrations that the person has obtained under subsection (b)(2).**

**The division shall make available to the public on the office of the attorney general's Internet web site the listing described in this subdivision.**

**(d) The division shall approve an application for an initial or a renewal registration under this section if the division determines that the applicant meets the requirements of this section. The division may deny an application for an initial or a renewal registration under this section if the division determines that there has been an administrative or a judicial determination that the applicant has violated or failed to comply with:**

**(1) this chapter;**

**(2) IC 24-5-22;**

**(3) IC 24-5-0.5; or**

**(4) any other applicable law, as determined by the division in rules adopted under subsection (h);**

**during the five (5) years immediately preceding the date of the application. A grant or denial of an initial or a renewal registration under this subsection is subject to the procedures set forth in IC 4-21.5-3-4.**

**(e) The division may remove a person from the registry if the division determines that there has been an administrative or a judicial determination that the person has violated or failed to comply with:**

**(1) this chapter;**

**(2) IC 24-5-22;**

**(3) IC 24-5-0.5; or**

**(4) any other applicable law, as determined by the division in rules adopted under subsection (h).**

**A removal of a person from the registry under this subsection is subject to the procedures set forth in IC 4-21.5-3-6.**

**(f) A person shall not advertise or represent to a consumer that the person is registered with the division under this section if the person is not registered with the division under this section at the time the advertisement or representation is made.**

**(g) This chapter does not:**

**(1) confer upon any person a professional license, certificate, or registration to practice as a home improvement supplier;**

**(2) limit, terminate, or cancel any professional license, certificate, or registration issued to a person to practice as a home improvement supplier; or**

**(3) require a person to obtain a professional license,**

certificate, or registration not otherwise required by law for the person's profession as a home improvement supplier.

(h) The division may adopt rules under IC 4-22-2, including emergency rules adopted in the manner provided by IC 4-22-2-37.1, to implement this section. Rules or emergency rules adopted by the division under this subsection must take effect by a date that will enable a person to apply to the division for registration under this section not later than July 1, 2016. In rules or emergency rules adopted under this subsection, the division may include provisions to do the following:

(1) Permit the division to:

(A) waive the requirement for the execution of a surety bond set forth in subsection (b)(3); and

(B) accept instead of a bond an irrevocable letter of credit that is:

(i) in an amount equivalent to the minimum amount prescribed by the division under subsection (c)(1); and

(ii) issued in favor of the state for the use and benefit of consumers;

under circumstances the division determines appropriate.

(2) Permit the division to waive the requirement for the payment of an annual fee under subsection (b)(4), under circumstances the division determines appropriate.

Notwithstanding IC 4-22-2-37.1(g), an emergency rule adopted by the division in the manner provided by IC 4-22-2-37.1 to implement this section expires on the date a rule that supersedes the emergency rule is adopted by the division under IC 4-22-2-24 through IC 4-22-2-36.

SECTION 6. An emergency is declared for this act.

(Reference is to SB 108 as introduced.)

and when so amended that said bill be reassigned to the Senate Committee on Commerce & Technology.

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LONG, Chairperson